

HAMILTON COUNTY BOARD OF AVIATION COMMISSIONERS
NOVEMBER 20, 2003

The Hamilton County Board of Aviation Commissioners met on Thursday, November 20, 2003 in the Hamilton County Commissioner's Courtroom in the Hamilton County Government and Judicial Center, One Hamilton County Square, Noblesville, Indiana. President Jacobi called the meeting to order at 6:49 pm. A quorum was declared present of Larry Jacobi, Tim Tolson and Buddy Pylitt. Paul Spranger was absent.

Approval of Minutes:

Buddy Pylitt motioned to approve the September 25, 2003 minutes. Tim Tolson seconded. Motion carried unanimously.

President's Report:

Indianapolis Metropolitan Airport:

Larry Jacobi announced he has received a letter from Roberge and Roberge, Attorney's at Law, which stated they are concerned about a proposed elementary school being built near Indianapolis Metropolitan North Airport. The matter is being looked in to.

Sheridan Airport:

Jeff Apple stated the hangars at Sheridan Airport are at full capacity.

AAI Conference:

Larry stated he, Tim and Mike attended the AAI Conference at Pokagon State Park. Tim stated the conference was informative. They met with representatives from the FAA and INDOT's Aeronautical Division to discuss our future. Larry stated we did have a Capital Improvement Program (CIP) meeting with the FAA. Mike stated the FAA has found the Indianapolis Executive Airport enlightening and staggered at the increase of business during the first few months of new ownership. We did look at the CIP and the issue that may be a problem is that when the county acquired the airport there was a commitment from this Board to seek reimbursement of a substantial amount of the purchase price within the near future. The FAA felt that reimbursement was a relatively low priority item, especially in light of the fact that there are numerous safety items - relocation of the fuel field, demolition of buildings, construction of taxiways, etc. that they felt should be a substantially higher priority. The FAA saw the reimbursement as being a roadblock for funds flowing to those other projects. As long as the reimbursement commitment is there it would be difficult to get the prioritization of funding that we had. Most of our energies are directed to the zoning issues in Boone County. After the first of the year we will need to meet with County Council and look at alternative ways to get approval of the acquisition costs, at least up to the amount of the Promissory Note to the seller and then allow the other safety issues to flow in to place that will help usage.

Indianapolis Executive Airport:

Bailey Land Trade:

Mike stated there is some thought that we acquire less land from Bailey's and get a tree topping easement from some of the land. The heights of the trees are an issue. The land we would be swapping to the Bailey's is far enough removed that an extra acre or two would not make a difference. We should try to stick with our original deal of gross acreage for gross acreage. Larry Creakbaum has said those legal descriptions are available and he will speak to the FAA. Mike asked Larry to get the legals to him so he can begin the appraisal process. We anticipate writing an administrative settlement letter to the FAA because we are trading tillable land for wooded land. Larry Jacobi stated this is land that is needed to move the glideslope from the west side of the runway to the east side of the runway. Dan Montgomery stated we need to make sure we can at least top the trees or remove them. Mike stated we would own it and do what we need to do.

Open House:

Andrea Montgomery stated the Open House was a success. It brought together State Representatives, Senators, Council members from Hamilton County and Boone County. Andrea thanked the Hamilton County Convention and Visitors Bureau, Hamilton County Alliance and Mike Howard for their generous donations towards the refreshments. Andrea stated she attended a Women's Republican Luncheon with Judy Levine, Steve Holt, and Jim Wallace. They are very interested and positive in the acquisition of the airport and it's future.

Airport Sign:

Andrea has spoken with The Sign Group, Inc., we will get the final invoice submitted for payment to Kim. They have staked out the area where the sign will be placed. The sign variance has been approved. The lighting variance has been approved. Boone County requires a 20' setback, she thinks we should go an additional 5' in case the road is ever widened or right of ways are needed in the future. Andrea requested someone from the Board come out and approve the location.

Orange Hangar:

Larry Jacobi asked if the orange hangar has been vacated? Dan Montgomery stated Ray VanSickle has requested an extension in his time to vacate the hangar to the end of November. He does have his pole barn under construction and there is a semi trailer he is moving things in to and he is throwing things away. Buddy Pylitt motioned to approve the extension to November 30, 2003. Tim Tolson seconded. Motion carried unanimously.

Airport Equipment Update:

Dan Montgomery stated the localizer is up and running. He has submitted all the bills to the Glider Club's insurance company. It costs approximately \$1,400.00 to repair it. PAPI lights – Ray VanSickle stated the legs for the PAPI are in. Dan will contact Michiana Contracting to schedule the repair. Dan stated the runway lights are finished and everything is working. He has not received a bill for the labor from Michiana Contracting. Dan stated the frequency for the Automatic Weather Operation System (AWOS) should be up anytime. Mid-States Engineering will be surveying for the altimeter. While he is surveying he will ask him to survey for the markings for the ILS technician.

Claims:

Dan presented claims for approval. Dan stated he has received a bill from Ray VanSickle for the Natural Gas Well License Bond in the amount of \$30.00. Buddy Pylitt stated he would like a packet before the meeting with all the information for the meeting, including the claims. Mike Howard stated he will prepare a form for the next meeting.

Striplin Airfield	\$3,895.74 – Runway Lighting
Dan Montgomery	\$316.51 – reimbursement for shipping
Dan Montgomery	\$670.06 – reimbursement for keypad installation
Vaisala, Inc	\$260.23 – AWOS Calibration
Professional Garage Door	\$646.00 – repair of fence

Buddy asked if we had received the cards from Ray would we have had the keypad expense? Dan stated no. Ray can not find the cards. Tim motioned to approve the bills as submitted. Buddy seconded. Motion carried unanimously

Dan stated we have switched all the licenses to Indianapolis Executive Airport.

Airport Zoning:

Mike Andreoli stated the Boone County Area Plan Commission considered, at their November meeting, a presentation by Steve Niblick in an effort to accomplish the creation of a text amendment to the Boone County Comprehensive Zoning Ordinance to create a new AZ Airport Zone. Mike Howard has reviewed that information. The meeting in November was for discussion only. There was no public input. The majority of the Plan Commission members felt it was in sufficient form and has scheduled a public hearing for December 3, 2003. If the text amendment is adopted, the next step would be for the Hamilton County Board of Aviation Commissioners file an application for rezoning for all airport property into the AZ Zone. If that is granted and then you are vested and able to do all of the things that is contained within that airport zone as listed in the definitions. Mike Howard stated he has reviewed the proposed ordinance and the uses and goals that we have to take the shackles off of this site and move forward with all reasonable foreseeable uses are accomplished. Mike Howard asked for the Montgomery's input. Mike Andreoli stated the discussion we had in November was not that the concept of creating an airport zone was not a correct concept, the discussion centered on whether the uses contained within the text proposed changes were extensive enough to make sure the airport had the ability to operate over the future years without getting subsequent administrative approval. One of the plan commission members suggested including a restaurant in the proposal. Those are the type of comments that were generated. Buddy asked if the current zoning around the airport is agricultural? Mike Andreoli stated the immediate zoning

around the airport is agricultural. Buddy asked how would the potential of an overlay zone fit into what you are trying to accomplish? Mike Andreoli stated overlay zones can be somewhat useful if you have a particular zoning classification that has some type of development standards that are generally fine for the type of uses that go in. You may have a particular type of development standard that you want to overlay on those development standards and that zoning classification. In this situation all the land is zoned agricultural. The proposed change will be to remove and not have any airport uses in an agricultural district, just in their airport district. Likewise you will not be able to put any residential districts in our agricultural districts. The key for the Aviation Board would be to try and scrutinize the land around the airport, try to project your needs for a series of years and then enter into a dialog with the legislative bodies in terms of how and what circumstance any development should be placed in these particular areas instead of agricultural development. Buddy asked if it is your belief that if we get this AZ Airport Zone it is possible we would not need to visit some sort of overlay to try and patch or to add to what we have. Mike Andreoli stated it all starts with the AZ Airport Zone district so Indianapolis Executive Airport is protected as a matter of right and is operating legally within all of the uses outlined within that particular airport zone. As far as what happens around it, that is on a case by case basis. One particular project may be more offensive to you in terms of what it may do or it's proximity to the airport than another. The nice thing is that with the land being zoned agricultural since 1976 somebody can not come in and argue that they have a vested right to have a residential or commercial development there. That will be a matter of individual decision based upon each individual case. One of the things that he has suggested to his clients and to the Plan Commission is that to the extent that there will be rezoning in that area or people seeking to land grab land and speculate to buy for rezoning of property, there should be a presentation made in front of the Board of Aviation Commissioners so you are put on notice. There should be a formal presentation made to this body. You should know what is being proposed up front, so you can weigh in. He does not know if it should be this body's job description to endorse a project. It is within your rights to be opposed to a particular project that would make the operation of the airport more difficult. Buddy stated he is concerned that a lack of endorsement is potentially being used by a proponent to say, Hamilton County is not complaining so they obviously support us. Mike Howard stated he concurs. Whenever you overlay, you are setting standards for unique and different types of development. Since you have an agricultural zone where no development is permitted, to place an overlay on it would place what is permissive. Buddy stated Boone County is being very receptive right now and if there are things that we can get in one swoop, maybe we should consider that. Mike Howard stated right now, even if you have an overlay, any land use can be amended through a rezone petition. Mike Andreoli's point is that since it has been agricultural since 1976, what you get in to is people saying that they purchased in reliance on something and then it changed. That reliance argument goes out the window if we leave it as is, as sits. You will avoid some political land mines of regulatory takings if you leave it as is. The general assembly has helped us with the noise sensitive legislation that does provide protection one nautical mile from your property line for the extension of the runway and mandates anyone who attempts to put a residential use in that area to receive a permit from INDOT, record that permit in the chain of title and provide proof of recording to INDOT before they obtain a permit. It is from the property line, not from the end of the runway, which is important given the fact that one of our stated goals in our CIP meeting was to look at a safety extension of the runway, approximately another 1500', which we have plenty of land.

Melissa Garrard stated he would like to discuss the concept of an overlay district and maybe some other alternatives that you may want to consider. Mike is right as to the regards of the uses being permitted in an agricultural district and Boone County is being very limited currently. The text uses could change and an overlay district would be of a benefit. More importantly you need to consider that this particular area of Boone County, there have been problems in the past with the relations between the growing residential community and the needs of the airport to grow and expand. Some planning has to be done beyond the airport's borders for addressing those incompatibilities and providing for the future relationships of those growing demands of development. She does not know whether you do that through an overlay district, that is certainly one tool that would put people on notice in terms of what would be expected if you were moving into the area around the airport. Another thing you might consider is an

amendment to the comprehensive plan of Boone County. That would not be changed on a case by case basis. Zionsville has recently come in and sought some amendments to the comprehensive plan to address planning concerns around their municipalities. That would be a very good way for you to address that issue that could not be changed with a rezoning. If you don't do some planning in this area, one of the concerns she has heard, is that why are you treating us differently, why should we have to do something that nobody else has to do. When you seek to negotiate standards on a case by case basis to which her response is, she is sorry you are the first and she is sorry we don't have any standards in place, but we still need to plan for it. She would like the Board to think in advance on how to address these potential incompatibilities and not have to face that argument everytime someone wants to develop a piece of property.

Mike Andreoli stated Melissa's suggestion in regards to looking long range to revise the comprehensive plan, as it relates to properties that surround the airport, is a very good suggestion. That is a way of doing what you want without creating vested rights and somebody else to argue about it. Having the property zoned agricultural and having a comprehensive plan suggesting that it will remain agricultural is a way of accomplishing that without having to deal with an overlay district. It has been his experience that dealing with overlay districts in Boone County has been a very difficult process. The Plan Commission's attitude is to get an airport zone so we can get this particular airport in a zone that gives it vested rights and protects it and then we can engage on a more generous planning exercise on how we handle other properties in the area.

Wellspring Farms: [7:35:34]

Mike Andreoli stated he is representing the developers of Wellspring Farms. This project is similar to the Estridge project. The proposed developers are working with the School Corporation to acquire some of their ground and then offsetting a school site. Mike showed the site development plan to the Board. Mike Andreoli stated we believe this project will receive a favorable recommendation from the Boone County Plan Commission. When these clients spoke to him initially, he informed them of his allegiance to the Montgomery's and the fact that they are performing work from time to time as needed for the Hamilton County Aviation Board. In reviewing all that was done on the Estridge project, it appeared that everybody recognized it was a meritorious project. It was a good project and well laid out. Any development in that area at this point in time has to start with the idea that the airport has to be protected with it's own zone. That is the way we are approaching this proposed development. We want to peacefully coexist with the airport. We fundamentally believe that we want an airport zone created. This airport zone will project the current and future uses of the airport. This was tabled last month so the Plan Commission could consider the airport zone classification at a public hearing. We will run parallel tracks with this project or slightly behind in what is being done with the airport zone classification. We are not asking for an endorsement of this particular project. We felt that the appropriate way to do this was to bring it the Aviation Board and let you know what the project is about. It is a residential project. It will have 358 total lots on 228 acres. There is a rezoning petition on file that will have to be a development approval down the road to the extent that the Boone County Commissioners will grant a rezoning of this ground. This project goes no further north or closer to the runway than any other project. Mike Andreoli stated the proposed school is lined up with the centerline of the runway. The proposal is to locate the school all the way to the southern end of the property so it is right on County Road 300. It is far away as you could locate the school from the airport's southern property line. As far as the school's plans are for this particular project, he can not tell the Board what their ultimate plan is. They bought the land to put a school there at some point and they would like to be able to do that. They are happy with the particular project because we are going to buy the ground and dedicate the site back to them and then if they chose to they can build a school at this site. When the prior project came on there was a lot of discussion, before it received it's recommendation, in regards to the notice provisions. Your counsel is correct and the law has changed. Prior to that there were discussion on how to give notice to surrounding property owners that there is an airport. We have moved past that and as a practical matter we want to peacefully co-exist. The Boone County Commissioners don't want to receive phone calls, this Board does not want to receive phone calls. Legitimately we want to be able to see if we can create an opportunity for reasonable development to occur in the area,

provided that reasonable notices are given. We have done that in terms of the proposed notices that were outlined in the staff report that we have committed to. The actual notice of provisions that we have agreed to, to put the covenants as well as the purchase agreement are in the staff report. The information you received from Mr. Howard in regards to the required notice and the recorded notice provisions that will have to be done is verbatim what we put in the actual covenants. In addition he has talked with his clients and he thinks the notice provision can be enhanced as we go through the development process. He would propose that once an airport zone is created and you are safely within that airport zone, that people within the subdivision should be told that there is an existing AZ airport zone district, that Indianapolis Executive Airport is within that district and all permitted uses within the confines of that airport district you will be allowed to do. That includes extension of the runway and all the other things you will be allowed to do in that definition. Those are the types of notice requirements that he thinks will be helpful. Something that could also be put in the covenants, in Boone County the Plan Commission requires a Right to Farm Law commitment, so people who build or do things in agricultural areas understand that there is a right to farm, even though it is state statute. There is also a Right to Airport exception to the public nuisance provisions. If you legally operate your airport and have done so in an appropriate manner that you are entitled to operate that free from public nuisance. We would propose putting that same language in the covenants to make people understand that while they may not be able to get personal satisfaction by calling somebody because nobody will care if they purchased a home located in that area, in addition they can not claim that the airport creates a public nuisance because you were there first and our covenants tell you that when you bought a lot in the subdivision. We will be sending the Board copies of the proposed materials that have been submitted. We are currently on the agenda for the same evening. Depending on what occurs we may decide to move forward, but not necessarily call for a vote that evening. Larry Jacobi stated the Hamilton County Board of Aviation Commissioners will meet with the Boone County Commissioners on December 1, 2003 at 1:00 pm. Larry asked if they could get the information to the Board prior to that meeting. Mike Andreoli stated we don't want to move ahead of the schedule of the airport getting protected, we want to work together. It is his hope that to the extent that this project is not offensive in terms of continued use and operation of the airport, he would hope we can find ways to allow reasonable development to occur in Boone County and the Aviation Board is not the negative that would prevent reasonable development.

Buddy stated there is no doubt in your mind that we want to peacefully exist, we are pro-development and we want to protect the airport. There is no doubt that we have publicly, as a Board, said we are going to extend that runway if we are allowed to. There is no question, we are unanimous. You have said that the old project and the new project are very similar and you have also said it is very different. There is no doubt in his mind that the project is different. The danger of trying to compare with what happen with the April 30th letter from Mr. Jacobi, is if someone takes that letter and says that this Board has endorsed the project, this person is jeopardizing the relationship with this Board. Mike Andreoli stated if you aware of that going on, please discuss it with him tonight. He is not aware of that. Buddy stated it is his understanding that one of your partners or spokesperson or their prior lawyer has waived the Jacobi letter and said the Aviation Board has endorsed the Abbitt Farms project, suggesting your project and the fact that they are not saying anything against it is proof that they are supportive of it. Are you aware of people who have done that? Mike Andreoli stated he is only aware that the new project has gone in front of the Boone County Area Plan Commission one time. Buddy stated someone has told him that someone has stood up and waived the letter and stated the Aviation Board endorses the current Abbitt Farms project. Mike Andreoli stated he is not aware that any of his people have publicly said that. We got into this right before the last Plan Commission meeting, he was the only one who spoke. He was the only one who made a presentation. Buddy stated it was his understanding that it was before you were involved. It was one of your people or Kent who said it. Andrea Montgomery stated it was Kent and it was the first project. The letter is still within this project file. Buddy apologized. Mike Andreoli stated they are here tonight because they want to peacefully co-exist.

Quarterly Report: [7:57:43]

Andrea Montgomery presented the Quarterly Report ending 9/30/03. Income totaled \$30,916.00 for the quarter. We will begin funding the \$10,000 quarterly payments to the County in the next quarter. Andrea stated expenses are on track. She is concerned about the utility costs. The AWOS will require a phone line. She would like to use the terminal maintenance money to supplement the utilities and phone lines to try to remain within budget as well as the projected 2004 budget. Utilities are higher than expected because we had no supporting evidence of the utility costs. There are a number of bills and expenses that we did not know about for the fuel farm maintenance standpoint. We will end up taking the terminal maintenance costs for those and creating another division calling it Fuel Farm Maintenance.

EPA Fuel Report:

Carl Winkler presented the EPA Fuel Funding Report for the period ending 9/3/03. We pumped 116,103 gallons, which is a significant increase.

Claim: [8:05:21]

Mike Howard stated there is a claim due that is payable to Michiana Contracting in the amount of \$83,559.49. We will be reimbursed 95% of this from the FAA and INDOT. Mike suggested that due to the cash situation at our meeting on December 1st, the County has approved an appropriation on the interest of the VanSickle contract and we have \$300,000 that we received from the FAA to be used for reimbursement. He would suggest we only pay \$250,000 on the contract and as soon as we are reimbursed we will pay the additional \$50,000. We do not know when we will receive the reimbursement. Buddy Pylitt motioned to approve. Tim Tolson seconded. Motion carried unanimously.

Public Comments: [8:08:29]

Melissa Garrard stated based on Ray VanSickle's experience in this area and operating the airport he has some concerns and suggestions he would like to discuss at some future meeting.

Tim Roebken, 240 South 1100 East, Zionsville, stated he is a neighbor of the airport. Tim asked if the Capital Improvement Plan (CIP) is available to the public for viewing? Mike Howard stated it is on file in the Auditor's Office or it is available at Indianapolis Executive Airport. Tim asked if the priorities and timelines are in the CIP? Larry Creakbaum stated timelines are not included but the list is in a priority level that we wish to have it developed. It does not mean it will be followed, sometimes the State and FAA have different ideas. It is updated every year and it will be updated in January. Tim asked if there is a long-range plan that exists that is public record? Larry Jacobi stated the CIP goes out 10 years and it will be the long range plan. Tim asked in regards to the master plan that the airport has before Boone County – if the airport zone is created and your master plan is approved as presented, is it your intention to develop an east-west runway and if so, what is the time line? Larry Jacobi stated the east-west runway is part of the CIP. It is down on the list. The main things we will look at in the next three to four years is moving the glideslope, replacing the ILS, finishing the taxiway. The crosswind runway is at least four to five years away. Larry Creakbaum stated it is dependent on the AIP user tax dollars that are obtained to build the other facilities. We are beyond a five-year period at this point before we get there. Mike Howard stated the extension of the existing runway to 7,000' would be ahead of the crosswind runway. Tim asked in regards to the east-west runway, in the plan is there a noise sensitive area identified as well as easements beyond the airport property? Larry Jacobi stated yes. Tim asked if his property falls within the easement that is identified could you show him what the implications would be as a property owner? Would you look to purchase the property? Mike stated the Airport Zone being created would have nothing to do with the noise sensitive area. The noise sensitive area is defined in relationship to a runway. It requires anyone who builds a building or structure after the runway is constructed to obtain a permit and record that permit to be subsequent purchasers on notice of the noise sensitive area. That noise sensitive area extends one nautical mile from the edge of the property, it's width is defined by 1500' either side of the extension of the centerline. Tim asked in terms of the easement, if the master plan is approved then the easement would be approved as part of the plan? Mike stated there is no easement as part of the zoning plan. Tim stated as part of the master plan for the airport? Mike stated there are no easements as part of the master plan for the airport. Tim stated it does exist on the architectural drawings. There is an easement area beyond the property of the airport.

Larry Creakbaum stated there have been no navigation easements. We have acquired some construction easements. The airport layout plan shows some easements on the ends of runways, but they are only a few hundred feet on the other side of the road that bound the airport. Tim stated they are on 1100 East. Mike stated you would be several hundred feet of an east-west runway if in fact one was constructed. Tim stated that is correct. Mike stated that is six or seven years out. The establishment of the Airport Zone would not create the easement. It would approve the plan. If the runway is constructed it would require easements and that would be a land acquisition that would occur at that time. Tim stated that would not happen until the actual runway was constructed, if the master plan is approved that could be done by the Commission without discussion from Boone County? Mike stated yes, if the FAA is a condition of funding for the runway would require the easement then the land would have to be acquired before the funding would be in place.

2004 Meeting Schedule: [8:17:04]

Buddy asked to table it until December 1, 2003.

Tim Tolson motioned to adjourn. Buddy Pylitt seconded. Motion carried unanimously.

Approved:

Larry Jacobi, President

Kim Rauch, Recording Secretary

Date

Date

Present:

Larry Jacobi
Tim Tolson
Buddy Pylitt
Michael Howard
Jim Wallace
Larry Creakbaum
Melissa Garrard
Tim Roebken
Andrea Montgomery
Dan Montgomery
Carl Winkler
Brad Beaver
Tom McHaffe
Gregg Montgomery
Jeff Jacob
Mike Anreoli
Susan Post
David Compton
Jeff Apple
Ray VanSickle
Kim Rauch